

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ATLANTIC GRAPHICS, LTD.
d/b/a SIR SPEEDY PRINTING,

Plaintiff,

v.

MAGNA CARTA COMPANIES, INC.
d/b/a PUBLIC SERVICE MUTUAL
INSURANCE CO.,

Defendant

CIVIL ACTION NO. 1:14-cv-12115

**PLAINTIFF'S MOTION FOR LEAVE TO AMEND THE COMPLAINT
TO CHANGE THE NAME OF THE DEFENDANT TO THE
CORRECT NAME AND TO ADD A NEW PARTY AS A DEFENDANT**

Now comes the Plaintiff, Atlantic Graphics, Ltd. d/b/a Sir Speedy Printing (hereinafter "Plaintiff" or "Sir Speedy"), pursuant to Rule 15 of the Federal Rules of Civil Procedure, and respectfully requests this Honorable Court to permit Plaintiff to amend the Complaint. As grounds therefore, the Plaintiff states that it has recently learned that it has misnamed the Defendant and requests to change the name of the Defendant in every instance in the Complaint, presently identified in the Complaint as Magna Carta Companies, Inc. d/b/a Public Service Mutual Insurance Co. (hereinafter "PSM") to the correct and proper name, Public Service Insurance Company d/b/a Magna Carta Companies (hereinafter "PSI"). The Plaintiff also respectfully requests that it be allowed to amend the Complaint to add Allen Insurance Agency, Inc. (hereinafter "Allen Insurance") as a Defendant and assert additional claims against it. This

Motion is timely as the deadline for amendments to the pleadings has not passed and the parties have not yet engaged in any discovery.¹

As grounds in support of this Motion, Plaintiff states that based on the representations of PSM the currently identified Defendant does not exist as a legal entity and it is Plaintiff's belief that the correct and more proper name of the Defendant is Public Service Insurance Co. d/b/a Magna Carta Companies. Upon information and belief, PSI is an insurance company authorized to do business in the Commonwealth of Massachusetts and domiciled in Illinois. PSI is presently doing business as Magna Carta Companies and correspondence to the Plaintiff concerning this case was from Magna Carta Companies, a branch office located in Braintree, Massachusetts. The Plaintiff further states that this particular amendment to the Complaint will not change the substance of the Complaint in any way, nor will it cause prejudice to any party to this action.²

In addition, the Plaintiff seeks to add as an additional Defendant, Allen Insurance, as Jerrold Kameras, the insurance agent who worked for Allen Insurance, made various misrepresentations to Plaintiff concerning the subject Insurance Policy from PSI. Defense counsel has represented to Plaintiff's counsel that Defendant has no objections to Plaintiff's seeking to Amend the Complaint to add this new party.³ Plaintiff's Amended Complaint includes allegations, *inter alia*, that Allen Insurance: (1) breached its agreement with Plaintiff to procure appropriate insurance for Sir Speedy and ensure maximum coverage for any losses arising under the policy; (2) breached the implied covenant of good faith and fair dealing implicit in that agreement; (3) engaged in deceptive business practices in violation of 93A; (4) made

¹ Although the Amended Complaint also includes additional facts relative to PSI, it does not include any additional counts against PSI.

² Plaintiff reserves its right to further amend the Complaint if it learns through discovery that PSI is incorrectly named.

³ The Parties conferred on June 19, 2014 and defense counsel informed counsel for the Plaintiff that Defendant does not object to Plaintiff's Motion to Amend with respect to adding Allen Insurance as a Defendant.

various misrepresentations to Sir Speedy that fraudulently induced Sir Speedy to purchase terrorism insurance coverage and engaged in continuous representations that Sir Speedy would be compensated for its business losses after the Boston Marathon Bombings; and (5) was negligent in its dealings with Sir Speedy concerning PSI's Terrorism Insurance coverage. See Proposed Amended Complaint, attached hereto as Exhibit A.

The Court should permit Sir Speedy to amend the Complaint as leave to amend is freely given, there has been no undue delay, and there will be no undue prejudice to the parties. See Fed. R. Civ. P. 15(a)(2). Importantly, the deadline to amend the pleadings has not yet passed and is currently set for August 8, 2014. There will be no prejudice to Defendant as neither party has served discovery or noticed any depositions and there is more than sufficient time in the discovery period for Defendant to conduct any additional discovery they deem necessary now that they have notice of these claims. Allowing Sir Speedy's Amended Complaint will not cause any unreasonable delay in the proceedings since the Court recently set the discovery deadline for February 2, 2015 after the parties' recent Case Conference on June 9, 2014. There are nearly eight (8) months left in the discovery schedule period and the parties have not yet engaged in written discovery or noticed a single deposition. The facts and circumstances surrounding this lawsuit clearly show that Sir Speedy was diligent in moving to amend its Complaint and therefore, the Motion should be allowed.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court to allow Plaintiff's Motion and grant it leave to file the proposed Amended Complaint, attached hereto as Exhibit A.

Respectfully submitted,

Plaintiff,
Atlantic Graphics, Ltd. d/b/a
Sir Speedy Printing,

By its Attorneys,

/s/ Kara Moheban McLoy
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7.1 Certification

Pursuant to Local Rule D. Mass 7.1(a)(2), undersigned counsel certifies that counsel for the parties conferred in an effort to resolve or narrow the issues raised in the instant motion but were unable to do so.

/s/ Kara Moheban McLoy
Kara Moheban McLoy

Date: June 19, 2014

CERTIFICATE OF SERVICE

I, Kara Moheban McLoy, hereby certify that I have this 19th day of June, 2014 served a true copy of the above Plaintiff's Motion For Leave to Amend the Complaint to Change the Name of the Defendant to the Correct Name and Add To Add a New Party as a Defendant upon all counsel of record by filing the pleading through the electronic case filing (CM/ECF) system.

/s/ Kara Moheban McLoy
Kara Moheban McLoy